

Town of Carlisle

MASSACHUSETTS 01741

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Office of PLANNING BOARD

MINUTES February 24, 1997

PUBLIC HEARING: Amendment to a Common Driveway Special Permit, Lots 1-3, Cross Street, Chris and John Fielding, applicants

PUBLIC HEARING: Definitive Subdivision Plan for Pine Meadow (Maple St.),
William Costello Realty Trust, applicant

CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Hunters Run, Brian E. Hebb Builders, Inc.

DISCUSSION:

Review of engineer's proposals to correct drainage deficiencies at Ice Pond Subdivision

Review of proposed bylaw amendments for wireless communications services Request for determination of Town's obligations and liability with respect to "kidney dam" on Lot 21, Tall Pines

OPEN SPACE RESIDENTIAL DEVELOPMENT BYLAW:

Review of draft warrant articles

Chair Colman called the meeting to order at 7:20 p.m. All members, Colman, Duscha, Epstein, Hengeveld, LaLiberte, Tice and Yanofsky were present. Also present was Planning Administrator Mansfield.

The minutes of the meeting of January 13, 1997, were approved as drafted on a motion by Epstein, seconded by Yanofsky, by a vote of 4-0-3, with Hengeveld, Duscha and Tice abstaining.

With regard to **budget** items, LaLiberte reported that he had met with the Personnel Board and had confirmed that no action is required on their part to support the Board's request for funding increased hours for the Planning Administrator's position in the FY1998 budget, since the position is already authorized for up to 40 hours. Colman asked whether this finding should be reported back top the Finance Committee, and LaLiberte agreed to call FinComm Chair Tom Bilotta with the information.

<u>Public Hearing: Amendment to a Common Driveway Special Permit, Lots 1-3, Cross Street, Chris and John Fielding, applicants</u>

All Board members were present, as was Joe March of Stamski and McNary, representing the applicants. March explained that there were two requests: first, to change the surface of the driveway from gravel to pavement, reflecting the preference of prospective buyers; and second, to raise the grade of the driveway at the cul-de-sac by about 1.5 ft. The latter change is proposed because the contractor hit ledge in this area while excavating, and such a change will avoid having to blast all around the cul-de-sac. It will also result in a change of grade of the driveway slope from 7% to 8.75% from Station 8+50 to Station 9+50.

Colman observed that the Board typically allows a maximum grade of 8%. March replied that his office standards allow 10% grades, and that there is already an approved 10% grade on the slope of this driveway nearer the street. Duscha asked whether guard rails are included. March responded that they will be installed at the wetlands crossing. Colman asked how these changes affect stormwater runoff. March replied that neither change will have any impact. He explained that runoff will occur in a sheet flow not concentrated in any one direction.

Duscha said that there are some rumors that this common drive may also be used for an adjoining property. She asked if the clients know what they have to do if they wish to make such a modification. March replied that they do. Tice asked how much of the increased elevation is due to the need for a gravel base for the pavement, and March responded that will require about 12 inches.

March asked the Board to reserve their opinion on this request until the Conservation Commission has acted on a revised Order of Conditions. Mansfield reminded the Board that there is also a request for a waiver of the project review fee, and that approval of both the amendments and the waiver have been recommended by LandTech. Duscha then moved to continue the hearing until March 10., 1997, at 7:30 p.m. That motion was approved 7-0.

<u>Public Hearing: Definitive Subdivision Plan for Pine Meadow (Maple St.), William Costello Realty Trust, applicant</u>

Present for this hearing were William Costello and his representatives, Joe March of Stamski and McNary, and Attorney Richard Gallogly. Also present were Mary Storrs, Kathleen Coyle, Anthony Mariano, Luisa and Jay Heard, Brian Anderson and Tricia Smith. Colman opened the hearing by explaining the background to the petition, i.e., that it was approved in March 1996 but automatically rescinded when the applicant failed to record the approved plan within a 60-day period after the expiration of the appeal period.

Gallogly maintained that the section of the subdivision regulations (3.B.9.a.) that provides for the automatic rescission was not discussed by the Planning Board in the previous hearing, nor was his client informed of the rescission until the Board's meeting of 1/13/97. He said his client was then told to refile and that it would not be a complicated process to reapprove the plan. He has done so but, Gallogly stated, we disagree with the Board's interpretation that the approved plan was rescinded and will be filing an appeal of that action in Land Court. He submitted a copy of the complaint that he said he intended to file.

He noted that they have filed a plan that fully complies with the Rules and Regs. and needs no waivers for approval. Consequently, the changes requested and agreed to in the previous plan are not included in this filing. He said they are willing to discuss these changes once again, but this time that discussion should be accompanied by a statement of the Board's intent to waive Sect. 3.B.9.a. of the Rules and Regs. (the 60-day recording requirement). Duscha asked why he desired this waiver. Gallogly replied that this period just doesn't give them enough time to obtain other permits and grant easements within this narrow window. He stressed that the Board always has the right to rescind or modify a plan that has <u>not</u> yet been endorsed.

March reviewed his letter of February 20 that details the differences between the plan now before the Board and the one that was approved last year. He also noted that they will subsequently be requesting a minor change to the plan to reflect a Superseding Order of Conditions granted by DEP, namely, pulling a sediment sump 20 ft. back from Isolated Land Subject to Flooding. Mansfield asked whether change in the location of the southwest intersection of Davis Rd. with Maple St. to improve the sight distances has been incorporated into this plan, and March replied that it was. Mansfield noted that the Board of Health has not yet taken action on this refiled plan.

Luisa Heard of Maple St. asked if she needed to ask again that the northeast intersection be realigned to keep headlights out of her house and was told that she would. Mary Storrs of Brook St. noted that although we talked about drainage issues last year, the major rainstorm in October caused significant water to flow on the property. She said she had pictures of this condition. Colman observed that this was likely to be an issue for the Conservation Commission. But Gallogly stated that they will not need further Cons. Comm. approval because of the Superseding Order of Conditions. He also argued that the October storm was not a typical event. Tony Mariano of Page Brook Rd. contested this statement. He said that in his 31 years living in the town, he has had water in his basement four times, including last October, which he would not interpret as an unusual situation Duscha asked if the storm changed the topography or the drainage patterns. Gallogly replied that he didn't think so.

Kathleen Coyle of Maple St. asked if there were any other committees that must act upon this plan. Mansfield replied that the Board of Health would be meeting the following night. Epstein then asked whether Costello had submitted an alternative plan for this site to the Board of Health. Costello replied that the only plan that he had recently submitted

was one required by DEP for a sewage treatment facility. Gallogly added that no alternative plan has been submitted. The only concrete plan for development—the <u>preferred</u> plan, he stressed, is the one before the Planning Board. Costello continued that the plan required by DEP is a preliminary step to filing for a comprehensive permit under the provisions of MGL Chap. 40B. Gallogly explained that this would be a project where, on his own, the developer sets aside units for low and moderate income households. But not even the soil testing for this alternative has begun, he said, and repeated that the plan before the Board is the plan that they wish to pursue.

Tricia Smith asked which lots were in the riverfront area. Gallogly replied that this has not been delineated, but that the road is completely outside the riverfront area. Costello added that he had no idea what the impact of the riverfront area on the lots might be because the regulations will not be issued until August.

Epstein requested that Town Counsel be asked if the Board has the authority to waive Sect. 3.B.9.a of the Regs., and asked the applicant whether this waiver would be in return for reinstating the five modifications in the original approval. Gallogly replied that the Board can waive anything that is in the Regs. But Duscha questioned what benefit the Town would gain from such a waiver.

March stated that there are already approved septic systems on many of the lots. When Gallogly questioned this statement, he clarified that these systems are approved, but not released.

Mansfield pointed out that these plans have not yet been reviewed by LandTech, at the applicant's request, so that the Board should determine if that review is necessary. Duscha said that LandTech should, at a minimum, review the new plans for the sump. Gallogly suggested that the LandTech memos prepared for the previous hearing be incorporated into this hearing. Epstein asked for the plan showing the relocation of the sump, and March promised that it would be submitted the next day. Colman instructed him to make the necessary revisions and submit the full plans to LandTech. Their records will contain their reviews and they only need to indicate to the Board if there have been any changes.

Hengeveld moved to continue the hearing to March 10, 1997, at 7:45 p.m. Tice seconded the motion and it was approved 7-0.

Continued Public Hearing: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, applicant

Lynne Remington and John Boardman of Ross Associates represented the applicant. Also present were Susan and Tom McAndrew, Ferris Taylor, Abby Jeffers, Kathy Rubenstein, Beverly and Ed Homm, Ruth Toscano, Tricia Smith and Vivian Chaput. LaLiberte recused himself from this hearing.

Remington described the several options for the grade and extensions of the roadway that have been developed over the past few weeks, showing their differences both in roadway profiles and in plan view in terms of the amount of cut and fill and land disturbance. In what she described as "Scheme C," where the approaches were lengthened but grades were held to a maximum of 10%, the maximum height of fill would be 12 feet, and the cuts would be greatly reduced. In addition, the detention basin is reduced in size, although another small basin is now located on the north side of the road in the area where the wetland replication was originally proposed. That area, in turn, has become much smaller and can be relocated because the extent of wetlands proposed for filling in this plan is much reduced.

She also reported that the Board of Health had issued their approval of the lots shown on the plan, and that Boardman had met with Capt. White of the Fire Dept. Boardman added that he had discussed the Department's new requirement for a 20,000 gal. cistern. They had tentatively agreed to locate it in the flat area of the Oak Knoll Rd. cul-de-sac (which would be abandoned). He said the Fire Dept. would be sending the Planning Board a memo to that effect.

Remington then addressed the question of the East St./Nickles La. intersection. She reported that the engineers had made a site visit with the Selectmen and neighbors. Boardman said that the current configuration of the intersection is not ideal. He said that the residents' primary concern is with traffic taking a left from East St. into Nickles La. He proposed that the point of land between East St. and Old East St. be cut back and paved, and that an island be created with a Keep Right sign to channel the turning traffic. The island might be painted, built of cobbles, or constructed with granite curb and shrubs. Colman and Tice said that they would prefer the latter since it would be more consistent with the Carlisle landscape. Boardman noted that such a project may need a scenic road permit form the Board. Duscha asked whether Hebb had seen this plan and if he was willing to propose and fund the project. Boardman replied that Hebb was aware of the proposal and he believed he would be willing to work with the Board to do it. Remington was more specific; she stated that Hebb had tentatively approved the proposal.

Tice asked what the impact of the proposed extensions of the subdivision roads would be on abutters driveways. Boardman distributed an as-built profile of Nickles La. under Scheme C. He also displayed and discussed the proposed Oak Knoll Rd. profile. He explained that he had contacted Mrs. Kelch of Oak Knoll Rd. that afternoon and found out that they are out of town and couldn't attend the hearing. But, he said, they remain opposed to the project. He said he proposed curling their driveway up the slope to reduce the slope to 6%, but they are opposed to this plan. If the driveway is continued straight to the lowered roadway, the grade of the driveway will increase from 10% to 11%. Mansfield called the Board's attention to a letter from the Kelches, received today, expressing their opposition.

Epstein asked about the quality and the continuity of the paving of the two connecting roads one the extensions were completed, specifically asking if the applicant would be willing to repave the entire roadways beyond the extension. Boardman replied that 800 ft. of Nickles La., and even more of Oak Knoll Rd., will not be disturbed by this project and need not be repaved. However, he said, the Board can condition its approval to require that any damage, particularly that caused by trucks accessing the subdivision over Nickles La., be repaired by the applicant. Colman told him to expect to see this condition.

Duscha asked that the plans for Scheme C, including the approaches, be sent to LandTech for review.

Hengeveld asked what effects the change in elevation of Nickles La. would have upon the abutters. Boardman replied that the grading would have no impact upon the existing culvert, nor upon the driveways, which are above present road grade. Tice asked whether the need for guard rails is increased or decreased by Scheme C. Remington replied that the length of guard rails would be reduced to about 350 ft., where the road crosses the wetlands. Tice asked if the engineers had identified a "tasteful" guardrail. Remington explained that there are three feasible types: the standard highway steel rail which is an aluminum color, a similar rail that is designed to rust, and cement poles and cables. The latter is not quite as safe, she said, and wooden rails would be unacceptable because at the 12 ft. high area of fill there is a need to hold back vehicles. Tice also asked about the amount of blasting that would be required under Scheme C. Remington replied that blasting would be significantly reduced, but not eliminated.

Ruth Toscano asked the engineers to specify the BVW alteration numbers. Boardman replied that Scheme C reduced those numbers from 2,500 s.f. to 1,000 s.f.

Abby Jeffers of Oak Knoll Rd. asked for an explanation of the proposed fire cistern. Boardman explained that it would be a 20,000 gal. underground tank, with a control panel 4 feet above the ground, accessed by a green pipe. He suggested she look at a similar one on Nickles La. He repeated that they are proposing this be located within the existing turnaround, which would be eliminated. Kathy Rubenstein commented that the Scheme C plan seems much better, but the fill at 14 feet (sic) still seems very high. Remington explained that the Planning Board has asked that the grading plans and profile, when complete, be sent to a landscape architect to obtain suggestions for making the raised road look more natural. For example, he said, the side slopes could be modified.

Ferris Taylor asked how deep the fire cistern would be installed, and if that would require blasting. Boardman answered that the tank is 11 ft. wide, 40 ft. long and 9 ft. deep, and requires 2 ft. of cover. There is 7-8 ft. of existing fill at the site, and so there is a possibility of hitting ledge. But, he said, the site is 120-140 ft. from the closest neighbor's well. But Taylor still believed that blasting could affect the Jeffers' well. He also asked

about the difference in elevation between the Kelch driveway and the relocated road, and was told it would be a 4.5 ft. grade change.

Taylor said, in conclusion, that the revised plan is better from an environmental point of view, but has heard a universal message from his neighbors that this roadway should not be built. "The Planning Board just doesn't get it," he said, "they are not listening." He stated that although the bylaw was changed to require connecting dead end roads 15-18 years ago, now we want to change it back to allow existing developments to be grandfathered. Vivian Chaput reminded him that if a bylaw amendment is passed at this year's Town Meeting, it will not affect this subdivision.

Tricia Smith asked how the Planning Board feels about granting a waiver of the 8% maximum slope, as a matter of policy. Colman replied that the Boar has gone back and forth on that, but he thinks that Scheme C is probably the best plan. He explained that a waiver for this plan would not set a precedent for future subdivisions. Rubenstein expressed her worry about the safety of the 10% grade and the curves.

Tom McAndrew of Nickles La. asked for more explanation of the modifications proposed at the East St. intersection. Boardman reviewed the proposal. McAndrew agreed that he would like to see an aesthetically pleasing traffic island, but cautioned that drivers will not go around the island but will cut to its left. He also raised questions about the adequacy of the drainage in the Nickles La. approach, citing a flooding problem at the foot of the driveway to existing lot 3A. Remington replied that this driveway approach, which is out of the project area, does not appear to be built right. Finally, McAndrew asked for an explanation of the rationale of siting the fire cistern on Oak Knoll Rd. Boardman explained that Capt. White prefers a flat, straight section of roadway to give his trucks better access, the elevation of this site would enhance the water pressure, and there is currently no cistern in the Oak Knoll area. But McAndrew suggested that the cistern should be nearer the potential additional development that could occur on the Kydd land and beyond.

Taylor proposed that the Board grant an additional waiver of 400-500 ft. to extend Nickles La. as a dead end road rather than approve any version of this plan. Colman explained that unless the applicant requests this, the Board does not have this choice and must approve a plan that meets its regulations. He asked if Taylor would prefer the Board approve the 8% plan as originally proposed. Taylor said he would, because such an approval would raise widespread objection throughout the town.

Epstein asked if Hebb had seen the letter of February 24 from the Carlisle Trails Committee. Mansfield passed the letter to Boardman and asked that the suggestions therein be considered.

Yanofsky asked if Hebb would be interested in a waiver to allow extension of the dead end road, as proposed by Taylor. But Remington replied that the question is moot because there is a bylaw that requires the connection of dead end roads.

Epstein expressed his dismay to hear that residents believe the Board "doesn't get it." He said that Board members are not happy with this plan, but do have the discretion not to approve the 8% plan as filed. He said that he, personally, likes neither the 8% nor the 10% plan. Taylor reiterated that there are 57 people on record who do not want this plan approved. He said he recalled that the bylaw has been waived in the past and asked how it might be done again. Rubenstein agreed that waivers have been granted to the bylaw. She added that the bylaw should not relate to existing development.

McAndrew asked for assurances that construction trucks will not use Nickles La. or East St. as a staging area, and asked the Board to protect existing homeowners from as much disruption as possible.

Toscano suggested that, for either the abutters or the Planning Board to count on another Board to disapprove a plan is bad policy. She said that the Town should be working to develop a strong non-zoning wetlands bylaw that would prevent development such as this.

The Board then addressed the question of the schedule for action on this request, currently set to expire on March 15. They asked if the plans for Scheme C could be prepared and sent to LandTech so that the recommendations from LandTech could be in the Board's hands by its meeting of March 10. Remington agreed that his would be done, and that she would also send all the plans to the landscape architect specified by the Board. Ed Homm of East St. asked that the landscape architect also review the guardrails. Epstein suggested that LandTech should also be developing costs for a performance guarantee, but Mansfield noted that such an exercise really cannot be done until the Board has reached a decision on the plan they expect to approve. In fact, this estimate is not called for in the Subdivision Control law and the regs. until after approval.

Remington submitted a letter requesting a further extension of time for the Board to render a decision. After some discussion the date of April 18 was agreed upon for that extension. Duscha then moved to extend the time in which to take action on Hunters Run Definitive Subdivision Plan until April 18, 1997, and Yanofsky seconded the motion. The motion was approved by a vote of 5-0-1-1, Epstein abstaining, LaLiberte recused. The public hearing was continued to March 10, 1997, at 8:30 p.m.

Review of engineer's proposals to correct drainage deficiencies at Ice Pond subdivision

John Boardman of Ross Associates, acting on behalf of Brian Hebb, reported that he had spoken with Mark Sleger of LandTech and Hebb and has had survey crews on the site today collecting topographic information. He said he did not have plans to correct the drainage problem yet, but intends to come up with a solution suitable to LandTech. He speculated that this would involve some sort of catch basin with an outfall. To undertake

the work he is contemplating, he said, he would need to receive permission from the homeowner whose property abuts the drain. He said he expects to have the information to LandTech by the end of the week and a proposal for the Board's review by March 10. Colman and Epstein asked that he also produce a letter from Hebb assuring the Board that he will cover the full costs of the design and review, as well as the construction. Boardman agreed to obtain such a letter.

Review of proposed zoning bylaw amendments for wireless communications services

Yanofsky distributed a memo of today's date which, she explained. summarized the subcommittee's request, that the Planning Board support a warrant article to establish a zoning overlay district in which wireless towers would be permitted. Duscha asked if Town Counsel has determined whether we can restrict this use to Town land. Yanofsky replied they had not, but that the Selectmen have asked that question of special counsel they have retained for this purpose. She explained that the subcommittee's first priority had been to survey potential sites for this use. She said they would be meeting with NYNEX on Thursday to continue this process. Although the language is not yet drafted, she asked the Board to submit a "place-holder" article. Several members raised questions about the potential article, including Duscha who asked if there would be night lighting. Yanofsky did not have specific answers at this time; e.g., regarding lighting, she said it would depend upon FAA requirements at any given site.

Epstein then moved that the Planning Board submit a warrant article establishing zoning controls for cellular towers. Duscha seconded the motion and it was approved 7-0.

Review of draft warrant articles to establish Open Space Residential Development provisions

Ken Ernstoff was present for this discussion. Yanofsky questioned whether the term "cluster" must be used in the bylaw, since it is defined in MGL Chap. 40A or 41 (the former), and suggested that this question be addressed to the Board's consultant, Mark Bobrowski. Hengeveld noted that it was a policy question as to how much of the language should be contained in the bylaw, how much in rules and regulations. Duscha said that she thought dimensional requirements and construction standards should both be in the bylaw.

Ernstoff expressed the opinion that the formula for determining the number of clustered lots was unrealistically liberal, although it had been presented to the Board as a conservative measure. Yanofsky noted that the intention is to encourage developers to select the cluster option. She subsequently moved that the Planning Board submit the following four articles for Town Meeting warrant: open space neighborhoods;

driveways; rear lots; and dimensional changes (as drafted by the consultants). Duscha seconded the motion and it was approved 7-0.

LaLiberte and Epstein agreed to review the current draft. They also discussed how the public informational workshop scheduled for February 27 would be organized. Yanofsky suggested that an introduction should set out "the rules of the game." Epstein agreed to undertake this introduction, and they turn the presentation over to the consultants, who are preparing visual aids. Yanofsky also suggested that the consultants might benefit from "planted" questions from Board members, and volunteered to prepare some. Epstein said that the consultants should be prepared to answer how their proposal differs current subdivision and conservation cluster options. Ernstoff suggested that the concept be "sold" to other Town boards in advance, especially the Conservation Commission.

Request for determination of Town's obligations and liability with respect to "kidney dam" on Lot 21, Tall Pines

Ruth Toscano of Fiske St, Joe March of Stamski and McNary, William Costello and Tricia Smith were present for this discussion. Toscano had raised the question of whether the Town had any responsibility for repair of or liability for damage from failure of the kidney dam on the Tall Pines property that she said resulted in excess flooding of neighboring property last October. The Board had, in turn, asked for and received an opinion from Town Counsel after their review of the various easements on the property and the conditions of subdivision approval. In a memorandum dated February 19, 1997, Town Counsel had concluded that "...none of the ... documents create any obligation on the part of the Town of Carlisle to maintain or repair the kidney dam. Accordingly, where there is no obligation, the Town would have no liability for injuries resulting from a failure of the dam."

Colman began by stating that Town Counsel appears to be saying that this is not a Planning Board issue. Nevertheless, Bill Costello suggested, it would be useful to have LandTech walk the site with March and evaluate the problem. Ruth Toscano explained that there was a flooding problem on her property in October that had never occurred before. She said it would be helpful if someone took a look at the conditions. Colman expressed some concern about committing Board resources to such an investigation, but Yanofsky reminded him that Costello said he would pay for the engineers' work. Costello affirmed this offer, but suggested that the purpose of the investigation should be defined. He said, for example, a major storm in the future could topple the trees on the dam and cause its configuration to change substantially. Yanofsky questioned whether, if LandTech is given this assignment, is the Town assuming liability if a problem is identified and nothing is done about it? But other members thought Town Counsel's memo was clear on this point and such a situation could not create liability.

Tricia Smith suggested that if the Board was going to look at the kidney dam, they should also look at other downstream control structures, such as the culvert under Fiske St. Joe March noted that there is a problem with that culvert.

LaLiberte offered that one solution might be not to accept the subdivision road if there is found to be a problem with the dam that the developer is unwilling to fix. Toscano once again described her experience as a downstream abutter, citing a "tremendous area of water." She also offered to allow the Board and its representatives onto her property to conduct the site analysis.

Yanofsky then moved to have LandTech call Stamski and McNary and arrange to look at the kidney dam and watercourse downstream. Epstein seconded the motion, and it was approved 5-0-1-1, Colman abstaining and Hengeveld excused.

Recommendation for MPO candidacy

Mansfield explained the request from the Town of Burlington to support their candidacy for a seat on the Metropolitan Planning Organization. The election is scheduled for February 26. Duscha observed that one of the other town candidates, Littleton, is more like Carlisle and might have more similar interests. But other members noted that neither Littleton nor any other town had made the effort to seek support by explaining their qualifications and outlining their goals, as Burlington had. Tice then **moved to endorse Burlington's candidacy for the MPO**, and Yanofsky seconded the motion. The motion was **approved** by a vote of 4-1-2, Duscha opposed and Epstein and Hengeveld abstaining.

The P.A. was asked to fax a copy of this action to Burlington's Planning Director, and to ask him to keep the Board informed about the issues on which they are working. [Burlington, Dedham and Framingham were successful in the subsequent election.]

Proposed resolution re: Middlesex County funding

Mansfield explained that this lengthy request came from the Norfolk County Advisory Board. LaLiberte suggested that the Board not involve itself in this issue, and made a **motion for No Action Necessary**. Yanofsky seconded the motion, and it was **approved** 6-0-1, Duscha abstaining.

Freedom of Information Act request

On a motion by Hengeveld, seconded by Duscha, the Board agreed to provide the minutes of its meetings, as requested, to Ken Evans by a vote of 6-0-1, Epstein abstaining. Colman asked the P.A. to be sure that the Town Clerk had copies of all the relevant minutes before releasing them.

The meeting was adjourned at 11:05 p.m.

Respectfully submitted,

George E. Mansfield Planning Administrator